

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.718 OF 2005

Balkrishna Damodar Lohat ..Applicant

V/s.

The State of Maharashtra ..Respondent

Mr.Uday Warunjikar for the applicant.

Mrs.U.V.Kejriwal, Addl.Public Prosecutor for the
Respondent/State.

Coram : R.M.LODHA &
R.S.MOHITE, JJ

Date : 16.02.2005.

PC

. Heard the learned Counsel for the applicant.

2. The applicant has been convicted of the offence punishable under Section 302 read with Section 34 of the IPC with other accused persons and sentenced to suffer life imprisonment.

3. The first application moved by the applicant for grant of bail came to be rejected by this Court on 4.2.2004 observing thus :-

This application is filed for bail by the accused who are convicted for the offence of murder. There is evidence of eye witness. Prima facie corroborated by the seizure of blood stained clothes of the accused. All these appellants-accused

were named in the F.I.R. lodged immediately after the incident. There is specific evidence of the weapons wielded by them with which they had assaulted the deceased who had received 14 injuries. There is also evidence on the point of motive against the appellants. The appellants were not on bail during the trial. In the circumstances, the application for bail, is rejected.

4. Thereafter the applicant made another Bail application being Criminal Application No.2614/2004. That application for grant of bail was on medical grounds.

5. The said application was withdrawn by the accused/applicant. The order dated 5.8.2004 of the Division bench observed thus :-

Mr.Mhaispurkar, learned A.P.P. appearing for the State points out that when the applicant was examined medically on 17/7/2004, the level of hemoglobin in the applicant's blood was 12 GM and on his medical examination on 2/8/2004, the level of hemoglobin in the applicant's blood has gone up and now the same is 14 GM. The xerox copies of both the reports are taken on record and marked as 'X' collectively. The aforesaid reports show that the applicant is being treated in jail and is being given proper dietary food and medication.

In view of the said report, Mr.Warunjikar, learned Counsel appearing for the applicant does not press this application and seeks liberty to apply to this court, in future, in case the applicant does not keep good health.

Accordingly, the application is allowed to be withdrawn with liberty to apply to this court, in future, in case the health of

the applicant deteriorates.

6. Relying upon the report dated 14.1.2005 of Ganesh Pathology Laboratory, this 3rd bail application has been moved by the accused.

7. The blood report dated 14.1.2005 reads thus:-

BLOOD

Haemoglobin : 10.5 gms % (Male 13.5-18.0)

(Female 11.5 - 14.0)

8. Merely because hemoglobin in the applicant's blood has come down to 10.5 gms. at the time the applicant was examined on 14.01.2005, it cannot be inferred that the health of the applicant has so deteriorated deserving grant of bail on medical grounds.

9. It is true that on 2.8.2004 the applicant's blood hemoglobin was found 14 gms and after about four months the applicant's blood hemoglobin is 10.5 gms. But that does not suggest any serious illness of the applicant.

10. We are thus, satisfied that no case for grant of bail on the medical ground is made out. The bail application on merits has already been rejected earlier.

11. Criminal application is accordingly rejected.

(R.M.LODHA, J)

(R.S.MOHITE, J)